

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEVIN GERARD MITCHELL,

Defendant.

CR-07-12-GF-BMM-JTJ

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on June 5, 2019. (Doc. 63). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a hearing on a violation of a condition of supervised release on June 5, 2019. (Doc. 63 at 3). The United States alleged that that Mitchell violated the conditions of his supervised release: 1) by consuming alcohol; 2) by using marijuana; 3) by using methamphetamine; and 4) by failing to complete his sex offender treatment program. (Doc. 56 at 2-3). Mitchell admitted

to the violations 1, 2 and 3. (Doc. 63 at 2). The government proved alleged violation 4. *Id.* at 3. These violations prove serious.

Judge Johnston has recommended Mitchell's supervised release be revoked. *Id.* at 4. Judge Johnston recommends Mitchell serve a custody term of seven (7) months, with forty-three (43) months of supervised release to follow. *Id.* Judge Johnston recommended further that Mitchell be allowed to file a motion for early termination of supervise release after he has completed twenty-four (24) consecutive months of supervised release, in full compliance with all of the conditions of supervised release that the Court has imposed upon him. *Id.*

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Mitchell's violations represent a serious breach of the Court's trust. This revocation of Mitchell's supervised release and custody term proves sufficient but not greater than necessary.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 63) are **ADOPTED IN FULL**.

IT IS ORDERED that Mitchell's supervised release be revoked.

IT IS ORDERED that Mitchell's serve a term of custody of seven (7) months with forty-three (43) months of supervised release to follow.

IT IS ORDERED that Mitchell be allowed to file a motion for early termination of supervise release after he has completed twenty-four (24)

consecutive months of supervised release, in full compliance with all of the conditions of supervised release that the Court has imposed upon him.

DATED this 21st day of June, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable. It is positioned above a horizontal line.

Brian Morris
United States District Court Judge

